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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,499	03/25/2004	Hidekazu Miyairi	0756-7275	5721

31780 7590 04/12/2007

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EXAMINER	
WEST, JEFFREY R	

ART UNIT	PAPER NUMBER
2857	

MAIL DATE	DELIVERY MODE
04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/808,499	**Applicant(s)** MIYAIRI ET AL.	
	Examiner Jeffrey R. West	**Art Unit** 2857	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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Continuation of 3:
The proposed amendments to independent claims 1, 3, 26, and 28 specifying the directions of the rows and columns, the calculation of average values of corrected saturations, obtaining an approximate line from relations between positions in the Y direction, and the fluctuations being obtained from relations between the approximate line and the average values, as well as the proposed amendment to claim 11, are considered to be new issues that would require additional search and/or consideration.

Continuation of 11:
As an initial matter, the Examiner maintains the withdrawal of claim 83 as Applicant's Response to Election filed November 07, 2005, indicated that claim 83 was not elected and the Non-Final Office Action mailed January 26, 2006, indicated that claim 83 was withdrawn. It is also noted that claim 83 is a duplicate of its parent claim 77.

Applicant argues:
Ozawa merely discloses an XO position having a maximum of added value derived luminance values to specify the boundary line in Figure 4. That is, Ozawa appears to teach electing an X coordinate position of "154" having a position XO (a peak position) having the maximum of added value derivated luminance values (or a mean value) to specify the boundary line (Figure 4, column 8 lines 3-20). However, Ozawa does not teach or suggest testing the crystallinity of a semiconductor film, of which the crystallinity is improved, using a fluctuation obtained from relations between an approximate line and average values.

The Examiner asserts that the since the proposed amendments are not being entered, the limitation in question requires "testing the crystallinity of the semiconductor film, of which the crystallinity is improved with a fluctuation obtained from the approximate line and the average value."
With Tsumura disclosing testing the crystallinity of a semiconductor film, of which the crystallinity is improved, Ozawa is relied upon for teaching image discriminations using a fluctuation obtained from the approximate line and the average value.

Ozawa discloses:
In each of the rows corresponding to X coordinate positions "151," "152," . . . of the unit blocks arranged in Y direction, that is, in each of the row with peak values positioned therein on the image and the rows adjacent thereto, the luminances of unit blocks are added.

FIG. 4C represents added luminance values graphically with respect to each of the rows arranged in Y direction. In each of the rows of X coordinate positions "151," "152," "153," luminance values are added and then compared for each row. In the same figure, if a curved line connecting the added values is drawn, a peak position (a predicted peak position) of that curved line can be specified to be the position of the boundary line of the slider edge portion X0.

Alternatively, there may be adopted a method wherein, in each of the rows extending in Y direction, a mean luminance value in unit blocks pixels) is determined to draw the curved line shown in FIG. 4C, and a peak value of the curved line is specified to be the position of the edge portion X0. (column 8, lines 3-20)

As can be seen by these cited sections, Ozawa discloses obtaining an approximate line from a relation of a position in the Y direction to the average value corresponding to the position in the Y direction and testing the device surface with a fluctuation obtained from the approximate line and the average value (i.e. forming the approximate line using the average value and determining a fluctuation/peak in the approximate line for testing the device surface).

Applicant argues:
The Official Action has not shown that Ozawa is in the field of applicant's endeavor or that Ozawa is reasonably pertinent to the particular problem with which the Applicant is concerned. Specifically, the Applicant respectfully submits that a positioning method for a magnetic head body for a hard disk device is not reasonably pertinent to Tsumura or Tanaka or the features of the present invention, and the Official Action has not demonstrated why one of ordinary skill in the art at the time of the present invention would have necessarily looked to Ozawa in order to improve Tsumura or Tanaka.

Ozawa discloses:
The present invention relates to a boundary line detecting method for specifying, by image processing, a boundary line between areas different in reflected light intensity, as well as a positioning method and apparatus for positioning, using the detecting method, for example a magnetic head body for a hard disk device and a support member such as a load beam relative to each other. (column 1, lines 11-17)

Therefore, while Ozawa does mention magnetic head positioning, Ozawa's disclosure focuses on solving the problem of detecting areas of a surface using differences in reflected light intensity. Such a disclosure is reasonably pertinent to the disclosure of Applicant's specification, Tsumura, and Tanaka.

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